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\*Practice Limited to  
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Commissioner for Patents  
PO Box 1450  
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Art Unit 1641

Re: U.S. Utility Patent Application  
Appl. No. 09/889,520; § 371 Date: December 10, 2001  
For: Assay With Reduced Background  
Inventors: Raven *et al.*  
Our Ref: 1581.0810000/RWE

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NOV 12 2003

TECH CENTER 1600/2900

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Reply To Restriction Requirement; and
2. Return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Robert W. Esmond  
Attorney for Applicants  
Registration No. 32,893

Enclosures

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#16  
11/18/03  
JW

In re application of:

Raven *et al.*

Appl. No.: 09/889,520

§ 371 Date: December 10, 2001

For: **Assay With Reduced Background**

Confirmation No.: 4276

Art Unit: 1641

Examiner: Davis, Deborah A.

Atty. Docket: 1581.081000/RWE

**Reply To Restriction Requirement**

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Commissioner for Patents  
Washington, D.C. 20231

NOV 12 2003

TECH CENTER 1600/2900

Sir:

In reply to the Office Action dated **October 8, 2003**, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby elect to prosecute the invention of Group I, represented by claims 1-6, 9-11 and 19. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed. Applicants reserve the right to file divisional applications directed to the non-elected claims.

This election is made **with** traverse. Reconsideration and withdrawal of the restriction requirement, and consideration of all pending claims, are respectfully requested. The criteria for a proper requirement for restriction are that (1) the inventions must be independent or distinct as claimed; and (2) there must be a serious burden on the Examiner if restriction is not required. MPEP § 803.

With respect to the division of the claims into three groups, Applicants respectfully traverse. Applicants respectfully assert that the claims in Groups I-III are closely related in subject matter. Even assuming, arguendo, that Groups I-III represent distinct or independent subject matter, Applicants submit that to search and examine the subject matter of the groups together would not be a serious burden on the Examiner. A search of one group of claims

is likely to encompass subject matter pertinent to the patentability of all groups. Hence, Applicants respectfully assert that a serious burden would not be imposed on the Examiner if restriction were not required. According to the guidance of the MPEP, “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” MPEP § 803. Hence, reconsideration and withdrawal of the Restriction Requirement, and consideration of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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